

**Notice of Allowability**

Application No.

10/561,220

Applicant(s)

RONEN ET AL.

Examiner

CATHY K. WORLEY

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response filed on May 28, 2008.
2. ☒ The allowed claim(s) is/are 1-4, 6-8, 12, 15, 16, 18, 19, 21, 22, 25, and 26; renumbered as claims 1-16, respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application                                       |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>813</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                                     |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                               |
|  | 9. <input type="checkbox"/> Other _____   |

/Cathy K. Worley/  
Primary Examiner, Art Unit 1638

**ALLOWANCE**

1. The previous Office Action mailed on Sept. 8, 2008, is **VACATED**. This Office Action takes its place.

*Rejoinder*

2. The restriction between the elected product of Group I, and the processes of Groups XXI, XXXI, XXXII, XXXIII, and XLIII is withdrawn (see restriction requirement mailed on Sept. 17, 2007). The Applicant agreed to amend the process claims to be of the same scope as the amended product claims (see interview summary).

*Information Disclosure Statement*

3. The information disclosure statement submitted on Aug. 8, 2008, has been considered. The examiner corrected the entry for one of the items on page 2. The correction has been initialed and dated.

### EXAMINER'S AMENDMENTS

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Martin Moynihan on Aug. 26, 2008.

The application has been amended as follows:

Claims 5, 9-11, 13, 14, 17, 20, 23, 24, and 27-52 are cancelled without prejudice.

#### IN THE CLAIMS:

Claims 9-11 (Cancelled)

12. (Currently Amended) A method of producing a polypeptide of interest in plant trichomes, the method comprising [[:]]

(a) ~~expressing the polypeptide of interest in the plant trichomes; and~~  
(b) ~~down-regulating a level of at least one molecule endogenous to the plant trichomes, said at least one molecule being capable of interfering with expression, accumulation or stability of the polypeptide of interest~~

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transforming a plant with the construct of claim 3; wherein the heterologous polynucleotide encodes said polypeptide of interest, and growing the plant so that the polypeptide is produced.

Claims 13 and 14 (Cancelled)

15. (Currently Amended) The method of claim ~~13~~ 12, wherein the polypeptide encoded by said nucleic acid sequence encoding the polypeptide of interest ~~heterologous polynucleotide~~ further encodes comprises a peptide capable of directing transport of the polypeptide of interest ~~fused thereto~~ into a subcellular compartment of the plant trichomes.

Claim 17 (Cancelled)

Claim 20 (Cancelled)

21. (Currently Amended) A method of producing a molecule of interest in plant trichomes, the method comprising [[:]]

(a) ~~— expressing a polypeptide capable of directly or indirectly increasing a level of the molecule of interest in the plant trichomes; and~~

(b) ~~— down-regulating a level of at least one molecule endogenous to the plant trichomes, said at least one molecule being capable of interfering with accumulation or stability of the molecule of interest~~

transforming a plant with the construct of claim 3; wherein the heterologous polynucleotide encodes a polypeptide capable of directly or indirectly increasing the

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level of the molecule of interest, and growing the plant, thereby producing the molecule in the plant trichomes.

Claims 23 and 24 (Cancelled)

25. (Currently Amended) The method of claim ~~23~~ 21, wherein the polypeptide encoded by said ~~nucleic acid sequence encoding the polypeptide of interest~~ heterologous polynucleotide further encodes comprises a peptide capable of directing transport of ~~said the~~ polypeptide ~~fused thereto~~ into a subcellular compartment of the plant trichomes.

Claims 27-52 (Cancelled)

### *Summary*

5. Claims 1-4, 6-8, 12, 15, 16, 18, 19, 21, 22, 25, and 26 are allowed and are renumbered as claims 1-16, respectively.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CATHY K. WORLEY whose telephone number is (571)272-8784. The examiner is on a variable schedule but can normally be reached on M-F 10:00 - 4:00, with additional variable hours before 10:00 and after 4:00 with additional variable hours before 10:00 and after 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg, can be reached on (571) 272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cathy K. Worley/  
Patent Examiner, Art Unit 1638